

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KAYLA GORE; JAIME COMBS; L.G.; and
K.N.,

Plaintiffs,

v.

WILLIAM BYRON LEE, in his official
capacity as Governor of the State of
Tennessee; and LISA PIERCEY, in her
official capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

Case No. 3:19-CV-00328

DISTRICT JUDGE RICHARDSON
MAGISTRATE JUDGE HOLMES

JOINT MOTION TO ASCERTAIN STATUS

The Parties jointly, and respectfully, move the Court to ascertain the status of their respective pending dispositive motions, in accordance with Local Rule 7.01(c).

Plaintiffs filed their Motion for Summary Judgment on March 9, 2020. (D.I. 60.) Defendants filed their response to the Motion on May 15, 2020. (D.I. 85.) Plaintiffs filed a reply on May 29, 2020. (D.I. 93.) The motion is fully briefed and is ready for the Court's consideration.

Defendants filed their Motion to Dismiss on March 17, 2020. (D.I. 65.) Plaintiffs filed their response to the Motion on March 25, 2020. (D.I. 71.) Defendants filed a reply on April 1, 2020. (D.I. 74.) The motion is fully briefed and is ready for the Court's consideration.

In recognition of the right of litigants to have their motions decided, the United States Court of Appeals for the Sixth Circuit requires litigants in the Parties' position to advocate for their right to the determination of pending motions through motions to expedite or other means. *See Diamond Club v. Ins. Co. of N. Am.*, 995 F.2d 1066 (6th Cir. 1993) (holding that litigant had waived its right

to complain of court's delay in rendering a decision when litigant "filed no motion to expedite or motion for a new trial in the district court").

The Parties' motions have been fully briefed and pending since mid-2020.¹ The Parties and their counsel are mindful of the Court's heavy docket, including the backlog of cases the Court assumed upon taking the bench in 2018 and the additional congestion created by the COVID-19 pandemic. They also appreciate the fact that the Court has been steadily working through this backlog. At the same time, the Parties are entitled to a decision on their motions. Therefore, the Parties respectfully request that this Court advise of the status of the pending motions.

¹ The Parties acknowledge that Plaintiffs filed notices of supplemental authority on July 2, 2020 (D.I. 98) and on December 17, 2020 (D.I. 102), to which Defendants responded on July 20, 2020 (D.I. 99) and on January 7, 2021 (D.I. 103), respectively.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2023, I filed the foregoing electronically through the Court's CM/ECF system. Parties may access this filing through the Court's system.

/s/ John Winemiller

John T. Winemiller